

Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 11437 WO	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/EP2004/003033	International filing date (day/month/year) 11.03.2004	Priority date (day/month/year) 05.06.2003
International Patent Classification (IPC) or national classification and IPC		
Applicant FEDERAL-MOGUL FRICTION PRODUCTS GMBH		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																									
<p>4. This report contains indications relating to the following items:</p> <table><tr><td><input checked="" type="checkbox"/></td><td>Box No. I</td><td>Basis of the report</td></tr><tr><td><input type="checkbox"/></td><td>Box No. II</td><td>Priority</td></tr><tr><td><input type="checkbox"/></td><td>Box No. III</td><td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td></tr><tr><td><input type="checkbox"/></td><td>Box No. IV</td><td>Lack of unity of invention</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. V</td><td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VI</td><td>Certain documents cited</td></tr><tr><td><input type="checkbox"/></td><td>Box No. VII</td><td>Certain defects in the international application</td></tr><tr><td><input checked="" type="checkbox"/></td><td>Box No. VIII</td><td>Certain observations on the international application</td></tr></table>		<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand	Date of completion of this report																								
Name and mailing address of the IPEA/EP	Authorized officer																								
Facsimile No.	Telephone No.																								

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
 - ☐ international search (Rule 12.3 and 23.1(b))
 - ☐ publication of the international application (Rule 12.4)
 - ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
 - ☐ the international application as originally filed/furnished
 - ☒ the description:
 - pages 1-3 _____ as originally filed/furnished
 - pages* _____ received by this Authority on _____
 - pages* _____ received by this Authority on _____
 - ☒ the claims:
 - nos. 1-6 _____ as originally filed/furnished
 - nos.* _____ as amended (together with any statement) under Article 19
 - nos.* _____ received by this Authority on _____
 - nos.* _____ received by this Authority on _____
 - ☒ the drawings:
 - sheets 1 _____ as originally filed/furnished
 - sheets* _____ received by this Authority on _____
 - sheets* _____ received by this Authority on _____
 - ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - ☐ the description, pages _____
 - ☐ the claims, nos. _____
 - ☐ the drawings, sheets/figs _____
 - ☐ the sequence listing (*specify*): _____
 - ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims		YES
	Claims	1-6	NO
Inventive step (IS)	Claims		YES
	Claims	1-6	NO
Industrial applicability (IA)	Claims	1-6	YES
	Claims		NO

2. Citations and explanations (Rule 70.7)

1 Reference is made to the following documents:

D1: US-A-5 753 807 (TRUEMAN ET AL.) 19 May 1998
(1998-05-19)D2: US-A-5 433 296 (WEBBERLEY) 18 July 1995 (1995-
07-18)D3: PATENT ABSTRACTS OF JAPAN Vol. 0072, No. 44
(M-252), 28 October 1983 (1983-10-28) & JP 58
131438 A (HINO MOTORS), 5 August 1983 (1983-
08-05)D4: PATENT ABSTRACTS OF JAPAN Vol. 1999, No. 11,
30 September 1999 (1999-09-30) & JP 11 153665
A (SONY), 8 June 1999 (1999-06-08)2 The present application does not meet the
requirements of PCT Article 33(1) because -
irrespective of the lack of clarity; see the
observations made in Box VIII - the subject matter
of claim 1 is not novel (PCT Article 33(2)).2.1 D1 (the references in parentheses relate thereto)
discloses a detection device having all the
features of claim 1, namely a:

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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- cylinder stroke detection system for compressed air disk brakes, with a sensor (200, figures 2, 3, 6) for detecting the cylinder stroke, a power source ("12-volt battery", column 10, line 60, figure 6) for supplying power to the sensor, an actuation device (S9) connected between the sensor and the power source and with which the sensor is switched on, and a function display unit (212, figure 2) connected to the sensor, said function display unit displaying the correct or defective state of the brake.

2.2 The subject matter of claim 1 is also known from D2 (see the embodiment as per figures 1, 2; sensor (26), actuation device (68), function display unit (70)), D3 and D4 (although the power source is not shown in D2 and D3, and D3 does not show the actuation device for switching on either, both must of course be present (vehicle battery, ignition switch)).

3 Dependent claims 2-6 do not contain any features which, in combination with the features of any claim to which they relate, meet the PCT novelty and inventive step requirements, since these features are likewise known from the aforementioned prior art - see:

3.1 Claim 2: D1 or D2

3.2 Claim 3: D3

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Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

3.3 Claim 4: D4

3.4 Claim 5: D1 (see figure 3 - the sensor can clearly be secured in a ventilation hole) - see also the observations made in Box VIII

3.5 Claim 6: D2 (column 4, line 57: "quantitative indication").

4 The subject matter of the application can be manufactured and used and is therefore industrially applicable (PCT Article 33(4)).

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

- 1 The application does not meet the requirements of PCT Article 6 because claims 1 and 5 are not clear.
 - 1.1 Claim 1 is worded as a detection device for (i.e. suitable for) compressed air disk brakes, but it is then defined by features which relate to the use of the device in a brake (which displays the state of the brake). Contrary to the requirements of PCT Article 6, the intended restrictions are not clear from the claim.

Under the present wording, any detection device having a sensor, power source, switch and display that is *suitable* for displaying a cylinder stroke appears to be covered by the scope of protection of claim 1.
 - 1.2 In claim 5, the wording "that it...can be secured" is unclear, since it does not define any technical features.